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09/839,840	04/23/2001	Gary Allan Cullis		2049

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EXAMINER

HOOSAIN, ALLAN

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,840

Applicant(s)

CULLIS, GARY ALLAN

Examiner

Allan Hoosain

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

FINAL DETAILED ACTION

Allowable Subject Matter

1. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Brown et al.** (US 4,972,461).

As to Claim 1, with respect to Figures 1-6, **Brown** teaches an answering machine detection method for a voice message delivery system comprising the steps of:

- (a) placing an outbound call to a recipient (Figure 4, label 402);
- (b) detecting a telephone line pick-up (Figure 4, label 404);
- (c) detecting whether the telephone line pick-up was by an existing answering machine or a live recipient (Col. 15, line 62 through Col. 16, line 6).

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As to Claim 15, with respect to Figures 1-6, **Brown** teaches an apparatus for detecting an answering machine for a voice message delivery system including a call message delivery system (CDS) (TeleMail Server) connectable to a telephone communications system, wherein the CDS (TeleMail Server) operates to:

- (a) place an outbound call to a Recipient (Figure 4, label 402);
- (b) detect a telephone line pick-up (Figure 4, label 404);
- (c) detect whether the telephone line pick-up was by an existing answering machine or alive Recipient (Col. 15, line 62 through Col. 16, line 6).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-13 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brown** in view of **Hwang** (US 6,181,779).

As to Claims 2,16, **Brown** teaches the answering machine detection method of Claim 1, wherein step (c) comprises:

- (c1) playing a prompt (Col. 12, lines 62-67);

Brown does not teach the following limitations:

- (c2) listening for talk-over during the playing of the prompt;

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(c3) determining the telephone line pick-up was by an existing answering machine if there is talk-over during the playing of the prompt;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). Hwang teaches the limitations (Figure 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claims 3,17, **Brown** teaches the answering machine detection method of Claim 2, and further comprising the steps of:

(f) playing a message if the telephone line pick-up was by a live Recipient (Col. 12, lines 62-67).

Brown does not teach the following limitations:

(d) waiting for silence if the telephone line pick-up was by an existing answering machine;

(e) playing a message if the telephone line pick-up was by an existing answering machine;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitations (Figure 1). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

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As to Claims 4,18, **Brown** teaches the answering machine detection method of Claim 3, and further comprising the steps of:

Brown does not teach the following limitations:

(g) detecting talk-over during playing of the message if the telephone line pick-up was by an existing answering machine,

(h) restarting the playing of the message if the telephone line pick-up was by an existing answering machine and talk-over is detected during playing of the message;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitations (Figures 1 and 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claims 5,19, **Brown** teaches the answering machine detection method of Claim 3, wherein step (e) comprises:

Brown does not teach the following limitation:

(e) playing a first message if the telephone line pick-up was by an existing answering machine; and further wherein step (f) comprises:

(f) playing a second message different from the first message if the telephone line pick-up was by a live recipient (Col. 12, lines 62-67);

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However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitations (Figures 1 and 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claims 6,20, **Brown** teaches the answering machine detection method of Claim 3, wherein step (f) comprises:

(f) playing a message and playing at least one interactive option if the telephone line pick-up was by a live Recipient (Col. 13, lines 1-16).

As to Claim 7, **Brown** teaches the answering machine detection method of Claim 3, wherein step (f) comprises:

(f) playing at least one interactive reject option, playing a message and playing at least one interactive option if the telephone line pick-up was by a live recipient (Col. 13, lines 10-24).

As to Claim 8, **Brown** teaches the answering machine detection method of Claim 1, wherein step (c) comprises:

(c1) playing a prompt that requests a touch-tone input (Col. 13, lines 10-13);

(c2) listening for the requested touch-tone input (Col. 13, lines 10-15);

Brown does not teach the following limitation:

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(c3) determining the telephone line pick-up was by an existing answering machine if the requested touch-tone input is heard;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitations (Figure 1). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claim 9, **Brown** teaches the answering machine detection method of Claim 1, wherein step (c) comprises:

(c1) playing a prompt that requests a specific speech input (Col. 13, lines 10-13);

(c2) listening for the requested specific speech input (Col. 13, lines 10-15);

Brown does not teach the following limitation:

(c3) determining the telephone line pick-up was by an existing answering machine if the requested specific speech input is heard;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitation (Figures 1 and 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

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As to Claim 10, **Brown** teaches the answering machine detection method of Claim 2, wherein step (c1) comprises:

(c1) playing a prompt within one second of detecting a telephone line pick-up (Col. 12, lines 62-67).

As to Claim 11, **Brown** teaches the answering machine detection method of Claim 2, wherein step (c1) comprises:

Brown does not teach the following limitations:

(c1 a) detecting voice energy after detecting a telephone line pick-up;

(c1 b) playing a prompt within one second of detecting voice energy.

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitation (Figures 1 and 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claim 12, **Brown** teaches the answering machine detection method of Claim 2, wherein step (c1) comprises:

Brown does not teach the following limitations:

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(c1 a) detecting voice energy and the end of voice energy after detecting a telephone line pick-up;

(c1 b) playing a prompt within one second of detecting the end of the voice energy;

However, it is obvious that **Brown** suggests the limitations. This is because **Brown** teaches delivering messages to answering machines (Col. 16, lines 1-6). **Hwang** teaches the limitation (Figures 1 and 6). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add detection answering machine messages to **Brown's** invention for determining answering by answering machines as taught by **Hwang's** invention in order to provide message delivery.

As to Claim 13, **Brown** teaches the answering machine detection method of Claim 2, wherein step (c1) comprises:

(c1) playing a prompt that introduces a call to a live recipient (Col. 12, lines 62-67).

Response to Arguments

6. Applicant's arguments filed 12/5/02 have been fully considered but they are not persuasive because of the following:

(a) **Brown** does not teach answering machine pick-up or live recipient answer.

Examiner respectfully disagrees. This is because **Brown** at Figure 4, label 404 teaches live recipient answer which satisfies the claim limitation because of the "or" in the limitation. In addition, **Brown** at Col. 16, lines 1-6, teaches that calls could be answered by answering machines.

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(b) The arguments with respect to claims 2-13 and 16-20 are based on the argument in (a).

Examiner respectfully disagrees for the same reasons given in (a).

(c) It is not obvious to combine **Brown** with **Hwang** because **Brown** teaches attendant delivery of messages.

Examiner respectfully disagrees. This is because **Brown** teaches automatic delivery of messages with or without attendants (see Figure 4, labels 409 and 441). As argued by Examiner in (a) **Brown** also teaches detection by answering machines and, therefore, suggests detecting answering machine signals as taught by **Hwang**. One of ordinary skill would be motivated to determine how **Brown's** system would be able to detect answer by answering machines, since **Brown** does not teach answering machine signals, and utilize the answering machine signal teachings of **Hwang** to perform the detection. Examiner respectfully believes that the combination of **Brown** with **Hwang** is proper as required by MPEP 2143.01 for achieving the claims.

(d) Examiner respectfully invites Applicant to contact Examiner to discuss possible amendments for overcoming the prior art of record.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunn et al. (US 6,169,786) teach message delivery and detection of answering machine signals.

Cox et al. (US 6,396,920) teach message delivery service on detection of busy conditions.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (703) 305-4012. The examiner can normally be reached on Monday to Friday from 7 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



Allan Hoosain
Primary Examiner
2/14/03